

February 24, 1998

Col. Leo W. Haseman
Director, Division of Enforcement
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4047

Jennie Eisert
20585 Garden Road
Shorewood, MN 55331

Nicole Russ
210 Delaware Street SE, #W620
Minneapolis, MN 55455

Amy Fierstein
210 Delaware Street SE, #W620
Minneapolis, MN 55455

Krista Haubrich
210 Delaware Street SE, #W605
Minneapolis, MN 55455

Angela Frandrup
4209 Marlborough Court
Minnetonka, MN 55345

Noel Kirby
210 Delaware Street SE, #W605
Minneapolis, MN 55455

Deputy William Devine
Carver County Sheriff's Office
600 East Fourth Street
Chaska, MN 55318-2190

RE: Trespassing Citations Issued on October 31, 1997 on the Old Seminary Property in Chanhassen; OAH Docket Nos. 6-2000-11520-2; 6-2000-11543-2; 6-2000-11521-2; 6-2000-11519-2; 6-2000-11518-2; and 6-2000-11517-2

Greetings:

A prehearing conference telephone call in this matter was held on February 20, 1998. Participating in the call were the undersigned Administrative Law Judge, Deputy Devine, Ms. Eisert, Ms. Frandrup, Ms. Fierstein and Ms. Kirby. Ms. Russ did not participate, but Ms. Fierstein indicated she was speaking for Ms. Russ. Ms. Haubrich did not participate, but one of the others indicated that she was speaking for Ms. Haubrich.

We had a thorough discussion among all participants regarding what happened, and there is no real dispute about the facts. These students were unaware that the land was posted, had no intention of trespassing, but walked into a situation where the landowner had made a number of complaints to the sheriff about trespassing and vandalism in the past, so a group of law enforcement officers were on the property for the purpose of apprehending any trespassers.

I asked Deputy Devine to submit a sworn affidavit to me regarding the posting of the property, and he has done so. He submitted a sworn statement from Detective

Roger Roatch of the Sheriff's Office which indicates that this particular property has been a source of complaints and problems since 1979, that at the request of the Sheriff's Office the landowner erected additional signs prior to Halloween, 1997, and that the County Attorney himself inspected the property earlier that day to be sure that everything was in place for the evening's surveillance. These students unknowingly walked into a well prepared "stake-out".

After all participants had been given an opportunity to tell their recollections of the situation, I informed them that if Deputy Devine's affidavit were submitted as he said it would be, that I did not see much point in going through with the hearing. I told them that they had an absolute right to a hearing, but if they were on the property, and it was properly posted, I would uphold the citations. After some discussion, the students decided they did not want to pursue the matter any further, and that they would pay the fines. Ms. Frandrup (Citation No. 32421) indicated she had already paid the fine. I assured her that she would not have to pay it again.

The fines should be sent by check or money order, made payable to the "Department of Natural Resources" to the following address:

Department of Natural Resources
Enforcement Division
500 Lafayette Road
St. Paul, Minnesota 55155-4047

I believe this matter has been resolved, and that no further proceedings will be necessary. I am, therefore, closing my file and returning the record to you.

Sincerely,

ALLAN W. KLEIN
Administrative Law Judge

Telephone: 612/341-7609

AWK:lr
Enclosures

P.S. In many of the prehearing conferences which I have held, a question has come up about whether or not paying the fine created a criminal record. When that question has come up, I have explained to people that this is not a criminal matter, it is a civil matter. Therefore, if the person is asked on a job application a question such as, "Have you ever been convicted of, or pled guilty to, a crime?", it is not necessary to discuss this incident when answering that question because this is not a criminal matter. Although this issue did not come up in the prehearing conference call on February 20 with these students, I think it is important for them to know that bit of information.

If I am not correct in that interpretation, please let me (and these students) know.

AWK